

**SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 1.4****LESS LETHAL FORCE****UPDATED FEBRUARY 2016**

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**1.4.1 Less Lethal Force Options**

Less lethal force is designed to be a defensive or control option in those cases where the safety of the employee or another person is threatened. The availability of less lethal force or weapons may possibly assist employees in the de-escalation of potentially violent confrontations while providing additional alternatives to the use of deadly force. Less lethal force has the potential to cause injury.

**1.4.2 Extended Range Impact Weapons**

The Department utilizes projectiles designed to be fired from a launcher / delivery system. These projectiles are designed to gain compliance from an individual without having to come into close physical contact.

**1.4.3 Use of Extended Range Impact Weapons**

Only police officers that have completed an approved training course taught by a qualified Department instructor, or a representative of the manufacturer supplying the projectile and/or delivery system, are authorized to use this type of weapon. Because Extended Range Impact projectiles have the potential to cause serious injury or death, this type of weapon shall only be used in the following circumstances:

- To incapacitate or gain compliance from a non-compliant, threatening, or combative person who poses a threat of serious injury or death to themselves, officers, or others, until they can be controlled and safely taken into custody. The threat may manifest itself through non-complaint behavior (that officers reasonably believe will become assaultive if acted on or approached), assaultive behavior, suicidal threats, being armed, or in the act of arming themselves.
- To be used as a defensive weapon in a situation where its use is likely to prevent a Department employee or member of the public from being seriously injured.
- In special circumstances in which greater officer safety or tactical advantages are sought, Extended Range Impact Weapon projectiles can be used for breaching.

Personnel should continually re-assess the suspect's threat capability, compliance, and/or incapacitation before follow-up Extended Range Impact Weapon shots are used. However, the use of less-lethal force is prohibited once the incident has de-escalated and

the suspect no longer represents a threat to themselves or others, and is no longer resisting.

Officers are not required or compelled to use Extended Range Impact Weapon projectiles in lieu of other reasonable tactics, if the involved officer(s) determine that deployment of these munitions cannot be done without endangering others. The safety of hostages, innocent third parties, and officers, takes priority over the safety of subjects engaged in criminal or suicidal behavior.

For the purposes of this section, the use of the Extended Range Impact Weapon does not constitute a “firearm discharge” unless it was intended to be deadly force (General Order [1.3.4.](#))

#### Deployment

It is the responsibility of the Watch Commander, or designee, to assign units to carry the Extended Range Impact Weapons during the shift, based on the number of trained users working that shift.

#### Providing First Aid

Police officers using Extended Range Impact Weapons shall provide necessary first aid to a subject struck by a projectile. The subject shall be examined at a hospital to ensure there is no serious injury. When the suspect is transported to County Jail, the jail personnel shall be notified that an Extended Range Impact Weapon projectile struck the suspect.

#### Review

The use of less lethal projectiles (including those possessing chemical agents) may fall under the firearm discharge policy, General Order [1.5.4](#) and General Order [1.5.5](#), depending on circumstances (i.e. used as deadly force). Each deployment of Extended Range Impact Weapons projectiles will be handled on a case-by-case basis. A Board of Inquiry may be convened at the direction of the Chief of Police. The board shall review the incident, and make an appropriate report to the Chief’s office.

#### **1.4.4 Physical Contact:**

An employee may use physical contact for defensive or control purposes. This physical contact shall be in a manner consistent with training and/or be objectionably reasonable in nature.

#### **1.4.5 Baton/ASP:**

The police baton or expandable baton used by police officers is either a defensive or control weapon and shall be used in a manner consistent with training. Police officers

shall not intentionally strike a subject on the head unless the use of deadly force is justified. Only batons meeting the requirements of General Order 41.3.5 may be carried.

#### **1.4.6 Chemical Agents:**

Chemical agents (including CS and OC) shall only be used as a defensive or control weapon in a manner consistent with training. Unless under exigent circumstances, chemical agents should not be used indiscriminately in a crowd. Only chemical agents issued by the Department shall be used.

Pepperball projectile launchers are a non-lethal weapon system that functions as an O.C. chemical agent delivery system and an impact projectile, depending on the projectile used. Although classified as a non-lethal device, the potential exists for injury if the projectiles strike the face, eyes, neck, or groin. Personnel deploying the Pepperball shall avoid intentionally striking those areas unless a life-threatening situation exists.

Projectiles currently available are .68 caliber Oleoresin Capsicum which dispenses OC powder; water filled balls which can be used as an impact round; colored rounds for marking certain suspects in crowds; Solid balls used for breaking glass. Some examples of intended uses for the launcher are:

1. When a suspect exhibits violent or potentially violent behavior that threatens the safety of others.
2. When it is unsafe for an officer to approach a suspect within contact range, or refusal to exit a vehicle.
3. To defend one's self or another from an aggressive animal.
4. To disperse an unruly or rioting crowd.
5. To encourage a suspect to leave a confined area, or to discourage a suspect's entry into a particular area.
6. When suspects armed with sticks, bats etc. have displayed intent to use the weapon to injure others or avoid apprehension. This shall not prevent escalating in force if justified.

The use of non-lethal impact ammunition/ projectiles shall be followed, as soon as practical, by First Aid procedures.

Only Officers who have completed the Department Pepperball/ Impact Projectile Launcher training will be authorized to use the Non-Lethal weapon system.

#### **1.4.7 Improvised / Unconventional Weapons:**

It is recognized that in some circumstances, employees may resort to using improvised or unconventional weapons to protect their safety or another's. Due to an exigency, these improvised weapons may be the only defensive weapons available. Employees shall not intentionally strike a subject on the head (with an improvised or unconventional) weapon unless the use of deadly force is justified. Examples of objects that aren't necessarily

intended to be weapons are patrol cars, pocket knives, flashlights, pens, radio hand-packs, cite books, etc.

#### **1.4.8 Hobble/Leg Restraints:**

An officer may use the Department issued hobble restraint in the event a WRAP is unavailable or exigent conditions exist. They may be used to assist police officers in controlling violent suspects who, although in custody and handcuffed, are using their feet, legs or upper body to continue physical resistance which is injurious to either their own welfare or that of the arresting police officers. The hobble may also be used to prevent arrestees from causing damage to City property, i.e., police vehicles, while awaiting the arrival of a wrap.

Once secured by a hobble, no prisoner shall be placed face down and/or left unattended. Pursuant to General Order [71.2.1](#), no prisoner shall be transported while restrained by a hobble.

#### **1.4.9 WRAP:**

The WRAP is a lower appendage restraint device designed for controlling the legs of physically violent or actively resisting subjects. The device shall be applied according to training and manufacturer guidelines.

Once secured by the WRAP, no prisoner shall be placed face down and/or left unattended. Every prisoner shall be transported in compliance with General Order [71.2.1](#).

#### **1.4.10 Carotid Restraint:**

As a defensive or control measure, the carotid restraint may be utilized by a police officer when his/her safety or the safety of another person is threatened. This restraint should be used cautiously and should be used when attempts of lesser force have been exhausted, are ineffective, or would have been inappropriate to attempt.

After an arrestee has been subjected to the carotid restraint, the arresting police officer is responsible for ensuring that the arrestee is promptly taken to a hospital for examination, before being transported to County Jail. Both medical and jail personnel shall be advised that the carotid restraint was used on the subject.

Only the carotid restraint taught in the police academy or the Department's Advanced Officer Training Program shall be used.

### **1.4.11 Noise Flash Diversionary Devices**

Noise Flash Diversionary Devices (NFDD), commonly referred to as “flashbangs,” are a tool used to gain an advantage when an immediate distraction is needed in a high-risk situation.

The use of noise flash diversionary devices has saved the lives of many police officers, innocent civilians, and suspects. However, due to the potential for injury or fire with their use, these devices must be properly deployed.

#### **Persons Authorized to use NFDD**

Only SRT personnel who have successfully completed a departmentally approved training course in the proper use and deployment of noise flash diversionary devices (NFDD) shall be authorized to deploy them. Personnel shall successfully complete a refresher course on an annual basis.

#### **Authorization and Justification For Use of NFDD**

With SRT supervisory approval, authorized SRT personnel may deploy noise flash diversionary devices in planned and unplanned high-risk operations.

On-duty authorized SRT personnel may deploy NFDD's without prior supervisory approval if they are responding to an immediate life-threatening situation. Examples of these include, but are not limited to, Active Shooters, Crisis Entry, Rescues, and Suicidal Persons.

#### **Deployment Considerations**

Prior to deploying a NFDD, personnel shall consider available intelligence information and circumstances including, but not limited to, the presence of children, elderly persons, flammable liquids or gasses, etc.

NFDD shall not be deployed in close proximity (within the same room) to children unless they are in imminent danger of being killed or seriously injured by an assailant.

When feasible, the preparatory command of “flash bang now, flash bang now” will be broadcast over the radio to advise and prepare other on-scene officers of the deployment.

#### **Deployment Review**

Pursuant to the requirements of GAO [1.5](#), the Special Operations Sergeant shall have the responsibility to review the use of any NFDD to ensure the devices were used according to policy.

### **1.4.12 Electronic Control Device:**

The Conducted Electrical Weapon (CEW) is intended to temporarily incapacitate a violent or potentially violent individual without causing serious injury. The CEW accomplishes this by discharging an electronic current that causes electro-muscular disruption.

### **Use of CEW**

Consistent with General Order 1.3 Use of Force and General Order 1.4.1 Less Lethal Force, the use of a Conducted Electrical Weapon (CEW) is authorized when circumstances known to the officer at the time indicate the deployment of the CEW is objectively reasonable. Those situations can include but are not limited to:

- To overcome resistance from a violent or potentially violent subject.
- Stopping a person who is attempting to flee or escape a lawful detention/arrest after evaluating the severity of the offense and totality of the circumstances.
- To control, disable, or subdue violent or potentially violent person's intent on harming themselves or others.
- To disable a vicious animal that appears to present a danger to the officer or public.

### **Multiple CEW Activations**

Every application of a CEW is a separate use of force. Officers shall assess the reasonableness and effectiveness prior to any additional activation. Officers shall only use the minimum number of activations necessary to gain control. Activations from multiple CEW operators may be necessary, if a subject continues to resist and/or a single activation appears to have limited effectiveness. Officers should consider the following prior to additional CEW activations:

- Are the probes making proper contact.
- Would other tactical options, including verbal commands, be more effective.
- Is the CEW activation limiting the suspect's ability to comply with commands.

Although not prohibited, repeated, prolonged, and/or continuous activations shall be avoided when it reasonably appears the CEW is not effective in assisting with gaining physical control.

### **Verbal and Visual Warnings**

Unless it would otherwise endanger an officer's safety or is impractical due to the circumstances, a verbal warning or announcement of the intended use of the CEW shall precede its use.

Officers may un-holster their CEW and display an electrical arc (drive stun mode) or focus the aiming laser of a CEW on a person prior to the use of the CEW in an attempt to gain compliance. The aiming laser should never be intentionally directed into a person's eyes as it may permanently impair their vision.

The fact that a verbal warning and/or other warning was given, or reasons it was not given, shall be documented in any related report.

### **Targeting Considerations**

Reasonable efforts should be made to target the back or lower center mass areas and avoid the head, neck, chest, and groin areas.

### **Restrictions and Limitations**

Unless there is an immediate threat of serious bodily injury, loss of life, or other exigent circumstance, a CEW shall not be used in the following circumstances:

- As a coercion, intimidation, or torture device. This prohibition is not to be confused with an officer's attempt to obtain compliance by 'displaying' the CEW.
- On individuals engaged in passive resistance. Passive resistance occurs when a subject fails to comply with an order from an officer but does not resist an officer's attempt to control them by physical action or verbal threats. Examples of passive resistance are actions such as sitting, lying down, or going limp in an area of ingress or egress after being directed to move (i.e. protester).
- To stop suspects from swallowing evidence or to retrieve the same.
- To wake or rouse an unconscious, impaired, or heavily intoxicated person.
- On handcuffed subjects unless they are actively resisting or exhibiting active aggression (i.e. kicking out windows), and/or to prevent them from harming themselves.
- On individuals in control of or operating a motor vehicle, moving machinery, or bicycle unless the vehicles movement can be controlled or prevented (i.e. gear in park, motor off, or vehicle blocked).
- In potentially flammable or explosive environments.
- On individuals who have been recently sprayed w/ alcohol based pepper spray.
- To apprehend a known juvenile, pregnant woman or an elderly person.
- On a subject who is in an area where they may fall from a significant height or into a body of water.
- Flight by a suspect is not the sole justification to deploy the CEW. The severity of the offence and totality of the situation should be considered before an officer uses a CEW on a fleeing subject.

When a suspect is armed with a Conducted Electrical Weapon and attacks or threatens to attack an officer, the officer shall defend him/herself at an appropriate level to avoid becoming incapacitated and risking the possibility that the suspect could gain control of the officer's firearm.

### **Persons Authorized to use CEW's**

Only sworn personnel who have successfully completed the required training and passed the certification test will be allowed to carry and deploy a Conducted Electrical Weapon (CEW). Personnel shall successfully complete a re-certification course on an annual basis.

Personnel shall only use CEW's, cartridges, batteries, and holsters issued/authorized by the Department.

### **Deployment**

All personnel carrying a CEW shall carry a minimum of two (2) cartridges including the one (1) in the CEW.

The CEW shall be carried armed, with the safety on, ready for immediate use.

Due to the possibility of a sympathetic muscle response, an officer shall not manipulate/handle a CEW and firearm at the same time unless deadly force is justified.

Carrying the CEW is mandatory by all sworn personnel in uniform assigned in an enforcement capacity. This includes while working an overtime assignment. Uniform personnel participating in a ceremonial capacity are exempt from carrying the CEW.

The CEW shall be secured in the designated holster on the weak-hand side of the duty belt, or other department-approved manner, at all times unless needed for deployment, demonstration, or for testing the device.

Unless in an undercover capacity at the time, on-duty plainclothes personnel (detectives, SET, etc.) shall carry the CEW, or have it readily available (e.g. briefcase, vehicle trunk, etc.), whenever they are outside the Police Administration Building. However, it must be carried on their person while involved in enforcement situations, contacting known violent subjects, or while engaged in high-risk field activity such as serving arrest or search warrants.

Plainclothes personnel shall secure their CEW in a designated holster on the weak-hand side of their belt, in their tactical vest, or in their weak-side tactical thigh holster authorized in high risk operations.



CEW's will be carried by SRT, SET, SCAT, and other personnel involved in planned and unplanned tactical operations.

Absent exigent circumstances, training, or maintenance needs, Spark Tests will only be conducted at the "outside" clearing box or at the Range. In the case of SRT, members may also utilize their Warehouse clearing box.

'Off-duty' use of the Department issued CEW is prohibited.

### **Reporting CEW Use**

Pursuant to General Order. 1.5 Reporting / Documenting the Use of Force, personnel who discharge or accidentally discharge a CEW shall notify their supervisor as soon as practical after its use. The discharge shall be documented in an offense or supplemental report. Personnel shall refer to the data download sheet for deployment information and attached that form to the report.

If no assailant is involved, an accidental discharge shall be documented in an interoffice memo to the Division Commander.

For tracking purposes, personnel who discharge a CEW, display one to gain compliance, or verbally warn of its pending use prior to being unholstered, shall complete a CEW Tracking memo. This "fill-in-the-box" form shall be forwarded to the Division Commander.

The 'display' of a CEW shall have occurred when the CEW is withdrawn from the holster and displayed to the subject with or without the use of the laser or, when the CEW is withdrawn, cartridge removed, and an electrical arc (spark) is displayed.

### **Safety Considerations**

Officers should be aware of a phenomenon referred to as "excited delirium." This has been used to describe a person who is exhibiting extreme mental and/ or physiological excitement by, but not limited to, physical exertion, hostility, agitation, euphoria, delirium, confusion, incoherency, paranoia, exceptional physical strength and endurance, insensitivity to pain, and hyperthermia (removing of clothes).

Persons exhibiting the above-described behavior(s) may be experiencing the condition of "excited delirium" and/or be under the influence of a central nervous system stimulant and/or hallucinogenic drugs. These persons may be at a higher risk for a potential medical emergency and require immediate medical evaluation.

Therefore, when practical, early intervention of emergency medical assistance, including a request to stage paramedics nearby, should be considered.

## **Medical Treatment**

If medical personnel are not already on-scene or en route, a Code-3 medical response shall be ordered for any subject exposed to a CEW activation via probes or drive stun. At least one (1) officer shall be assigned to continually monitor the subject's physical condition until relieved by emergency medical personnel. Officers shall immediately notify supervisors of any breathing difficulties or any other physical and/or mental state changes.

Any person who has been subjected to the electronic discharge of a CEW, or has had their skin struck by its probes, shall be transported by ambulance to a hospital for examination and clearance prior to booking.

Unless stuck in clothing, only qualified medical personnel shall remove CEW probes. Used probes shall be considered a sharp biohazard and packaged as evidence accordingly.

## **Evidence Collection**

Supervisors will respond to all CEW activations\* and ensure that photographs are taken and the AFIDs (serialized confetti), expended cartridge, and probes are recovered and placed into evidence.

After a CEW is activated through drive-stun mode or cartridge use, the officer shall submit it as soon as possible to their supervisor for CEW data downloading. The Watch Commander will then issue the officer a replacement cartridge, if needed.

\*These requirements do not pertain to CEW activations conducted in a training environment.

## **Maintenance / Care / Dataport Tracking and Training**

Although the primary responsibility for caring for the CEW lies with the personnel to whom it is issued, all CEW maintenance will be the responsibility of the Range master.

The Range master shall be responsible for issuing CEWs, their inventory, and for ordering related equipment and supplies.

For quality assurance and accountability, supervisors shall be responsible for data downloading all CEWs every 6-months, preferably at shift bid. The supervisor shall also inspect the CEW for signs of wear and tear and to verify there is adequate battery life.

The Training Unit is responsible for maintaining CEW training records to ensure that personnel have successfully completed the initial training program and their annual re-certification.